



ASSOCIATION OF  
**CHIEF POLICE OFFICERS**

The  
**Electoral**  
Commission



# Analysis of cases of alleged electoral malpractice in 2010

Associations of Chief Police Officers and  
Electoral Commission analysis

February 2011

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# Foreword

Casting a vote on election day is one of the most important things we do as citizens in a democracy. People throughout the UK should be confident that their votes count in the results of elections. Electoral malpractice is a serious issue. Preventing opportunities for electoral malpractice, ensuring that attempts to commit malpractice are detected, and ensuring that the police deal with allegations appropriately are key priorities for the Electoral Commission.

We work with the UK's Associations of Chief Police Officers to collect data on the number of cases of electoral malpractice reported to the police in order to enhance our understanding of the scale and nature of electoral malpractice at UK elections. We received returns from each of the 51 police forces in Great Britain and the Police Service Northern Ireland (PSNI) on a monthly basis throughout 2010.

This report provides a record of cases of alleged malpractice relating to the 2010 elections, including the outcome of cases where information is available: a total of 232 cases.

We do not know the outcome of every case of alleged electoral malpractice reported at the 2010 elections at this stage. Sixty-eight cases across Great Britain<sup>1</sup> remain under investigation by the police or await advice from prosecuting authorities; court proceedings have been initiated in two cases, with one resulting in a conviction while the other is still ongoing. Two cases resulted in a police caution being accepted, and in 23 cases informal police advice was given. The majority of cases of alleged electoral malpractice reported, 137 in total, required no further police action. This was because no offence was committed, there was insufficient evidence to bring a prosecution or no offender could be detected.

Electoral malpractice is an issue for all parties and independent candidates, and we have made it clear in the examples used in this report which cases relate to which party, where this information is known. We will continue to do this as we report on those cases not yet closed and will ask the police to collect this information in the future.

Because this report is based upon alleged electoral malpractice recorded by the police, our analysis does not include information about the election petition involving the former MP Phil Woolas in the UK Parliamentary constituency of Oldham East and Saddleworth. As the petition arose from civil action there was

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<sup>1</sup> We have used figures for Great Britain only, so they can be compared with figures used in our previous reports. Details of alleged cases of electoral malpractice in Northern Ireland are found in paragraphs 2.52–4.

no police involvement at that stage and therefore it has not been included in the police force returns.

There appears to be no evidence of widespread, systematic attempts to undermine or interfere with the May 2010 elections through electoral fraud. Yet despite this, people remain concerned about the risk of electoral fraud. We highlighted in our July 2010 report<sup>2</sup> that just over a third of people (34%) were very or fairly concerned that electoral fraud and abuse took place at the May 2010 elections.

More recent survey evidence has shown that there has been an increase in the number of people who thought that fraud relating to voting and elections was a problem – 40% compared with around 30% in 2007, 2008 and 2009.

This increase may in part be explained by high-profile press reports including the petition in Oldham East and Saddleworth involving the former MP Phil Woolas. It may also relate to concerns raised, and widely reported by journalists and politicians alike, about electoral fraud at the 2010 UK general election. High-profile media reports of alleged electoral malpractice in areas such as Tower Hamlets often create a climate where people think malpractice is more prevalent than it is. In this example all but one of the 14 cases of alleged malpractice reported resulted in no further action.

Turning specifically to postal voting, our research suggests that there has been an increase in the proportion of people who perceive this as a safe voting method in recent years. Over half (53%) of respondents to our December 2010 survey said the process is safe from fraud and abuse compared with 40% in 2008 and 46% in 2009. This may in part be due to measures in the Electoral Administration Act 2006, which have strengthened the security of postal voting in Great Britain.

This legislation, which incorporated recommendations from the Commission, has given more powers, duties and new procedures to those preparing for and running elections to identify and check for malpractice. But it is not enough on its own. We have also set performance standards to ensure that electoral administrators have processes in place to identify any patterns of activity that might indicate electoral malpractice, and worked with Royal Mail to produce a pocket guide for all Royal Mail staff to help them to be more vigilant and better equipped to report anything to the police they think may be suspicious.

Our ongoing work with the UK's Associations of Chief Police Officers has meant that there is now in every police force an election Single Point of Contact (SPOC) officer committed to preventing electoral malpractice and providing a fast and

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<sup>2</sup> The Electoral Commission, *Report on the administration of the 2010 UK general election* (July 2010), available at [www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf).

positive response to allegations. Alleged malpractice is now recorded and more information than ever is now available on the extent of electoral malpractice.

No one should be complacent about the risk of electoral malpractice at future elections and we are not. Allegations could be made at any time in any part of the UK. We will continue to work with electoral administrators to support effective performance in relation to electoral integrity, and with the police to ensure cases of alleged malpractice are recorded and monitored.

We will continue to support and provide advice to governments across the UK on identifying opportunities to change the law where it is needed to strengthen the security of our electoral system. In particular, we welcome the progress that has been made in implementing individual electoral registration in Great Britain, and we also reiterate our recommendation from our report following the May 2010 polls that the UK Government should review the case for requiring proof of identity for voters at polling stations in Great Britain.

Although we know that the majority of cases at the 2010 elections were reported by police forces in metropolitan areas, the data reported by police forces does not identify demographic information about those who are alleged to have committed electoral fraud. This does not enable us to substantiate the claim often made by commentators that electoral malpractice is more prevalent in South Asian communities in the UK.

Additional data and research would be required to establish whether there is a basis from which to draw such conclusions. We would be happy to work with government, police and prosecutors, academics or other organisations that would be keen to undertake such work.

We thank the SPOC officers for electoral malpractice in police forces across the UK, as well as Electoral Registration Officers (EROs), Returning Officers (ROs), electoral administrators, Royal Mail and political parties, for their continued hard work to identify and prevent malpractice at UK elections. In many cases their work and the evidence they gather lead to those who commit fraud being sent to prison, which is a sign of how seriously the courts treat such offences. We look forward to continued close working to record and report on cases of alleged electoral malpractice in future years.

Jenny Watson

# Key findings

Although we received returns from SPOCs on a monthly basis throughout 2010, the data presented below is based on returns dating from 6 April to 20 August 2010. This is to allow comparisons with figures from previous years. Unless stated otherwise, the figures quoted in this report relate to this period and are for Great Britain only as we have not previously reported on alleged malpractice in Northern Ireland in our reports.

- At the time of publication of this report, we are not aware of any case reported to the police that affected the outcome of the election to which it related nor of any election that has had to be re-run as a result of electoral malpractice.
- One case of alleged electoral malpractice resulted in a prosecution and conviction, leading to a fine of £200. Court proceedings had been initiated in one case. Two cases, involving one where an ineligible candidate stood for election and the other where turnout data from a postal vote session was illegally published, were resolved with cautions. Twenty-three cases resulted in informal advice being given by the police.
- At the time of publication of this report, 68 cases of alleged electoral malpractice remain under investigation or are awaiting advice from the Crown Prosecution Service (CPS).
- Over half of all cases of alleged electoral malpractice reported during the election period, 137 in total, required no further police action. This was because no offence was committed, there was no or insufficient evidence to bring a prosecution or no offender could be detected.
- Of the 232 cases of alleged electoral malpractice reported by the police during the election period in Great Britain, 216 were reported in England, nine in Scotland and seven in Wales. In addition a total of 25 cases were reported in Northern Ireland throughout 2010.
- The most frequently reported category of cases of alleged malpractice were those relating to voting offences (38%), including personation at a polling station and someone tampering with a ballot paper. This was a similar proportion to 2009.
- The second most reported offences were campaign offences (34%) including false statements being made about a candidate. This proportion was 27% in 2009.
- While cases of alleged electoral malpractice have been recorded by police forces across the UK, the majority of cases were reported by forces in metropolitan areas.

**Table 1: Outcome of cases of alleged electoral malpractice reported in relation to the May 2010 elections**

<b>Outcome</b>	<b>Number of cases</b>
No further action	137
Under investigation/CPS advice	68
Informal police advice	23
Conviction	1
Caution	2
Court proceeding initiated	1
<b>TOTAL</b>	<b>232</b>

## Key facts

### May 2010 elections

- 45,597,461 people were eligible to vote in the May 2010 elections across the United Kingdom: 38,300,110 in England, 3,863,042 in Scotland, 2,265,125 in Wales and 1,169,184 in Northern Ireland.
- 4,150 candidates, representing 135 registered parties, contested the UK general election.
- 29.7 million valid votes were cast in the UK general election. Nearly 24 million votes were cast in approximately 40,000 polling stations with 5.8 million valid postal votes received. Over 140,000 people were appointed as a proxy.
- 13.6 million valid votes were cast at the local government elections across parts of England where they were held. Nearly 16,000 candidates stood at the local elections in England.

### The outcome of cases and allegations

- At the time of publication of this report, one case reported by Greater Manchester Police relating to the distribution of leaflets without an imprint and making false statements about a candidate, resulted in a prosecution and conviction, leading to a fine of £200.
- Court proceedings were initiated in one case. Two cases were resolved with cautions, and 23 resulted in informal police advice being given, a similar proportion of the total number of cases reported as in 2009 (10%).

- Over half of all reported cases (59%) during the election period were recorded as requiring no further police action, slightly higher than the number of cases that required no further action in 2009 (52%).
- 68 cases remain under investigation or are awaiting advice from the CPS.

## The scale and extent of cases and allegations

- 80% of all reported cases involved only one allegation against a single individual.
- Seven police forces reported 10 or more cases of alleged electoral malpractice at the May 2010 elections. These were concentrated in the metropolitan borough areas.
- 11 UK police forces reported no cases of alleged electoral malpractice relating to the May 2010 elections.

## The nature of cases

- The most frequently reported category of cases during the election reporting period was that relating to voting offences, such as personation and tampering with a ballot paper. Voting offences accounted for 38% of all reported cases.
- The proportion of alleged voting offences that related to personation was smaller in 2010 (52% or 45 of the 87 voting cases reported) than in 2009 (68% or 13 of the voting cases reported) while the proportion of alleged offences of tampering with ballot papers was larger in 2010 (21% or 18 of the 87 voting cases reported) than in 2009 (11% or two of the 19 voting cases reported).
- The second most frequently reported category of cases related to campaign offences (34%). Just under half of these were where a false statement of fact was alleged to have been made about the personal character and conduct of a candidate.
- Within the category of campaign offences, the proportion of cases where a false statement of fact was alleged to have been made about the personal character and conduct of a candidate at the May 2010 elections (47%) was larger than in 2009 (31%) while the proportion of alleged imprint offences was smaller in 2010 (40%) than in 2009 (69%).

- The category of cases of alleged registration offences relating to the May 2010 elections accounted for 20% of all cases, a similar proportion to 2009. Cases of alleged nomination offences represented 8% per cent of all cases relating to the May 2010 elections, compared with 13% of all cases relating to the 2009 elections.

**Table 2: Nature of cases of alleged electoral malpractice reported in relation to the June 2009 and May 2010 elections**

Category of offences	June 2009 cases (% of total)	May 2010 cases (% of total)
Registration	19	20
Nomination	13	9
Campaigning	27	34
Voting	40	38

## Implications and recommendations for elections and referendums in 2011

While our findings at this stage are encouraging, those involved in the administration or policing of elections should not be complacent about the risk of electoral malpractice at future elections – allegations could be made at any time in any part of the UK.

The approach to dealing with issues of alleged electoral malpractice has changed considerably in recent years and electoral administrators, the police, and Royal Mail are more vigilant in identifying cases where electoral malpractice may have taken place. A great deal has also been done to help prevent and deter electoral malpractice and ensure that those who are tempted to break the law are caught and then punished, including:

- Changes to the law to specify new offences and require more checks on postal votes.
- Improved networks and guidance for police officers on electoral malpractice offences issued by ACPO, the Association of Chief Police Officers in Scotland (ACPOS) and the Electoral Commission.
- Clear performance standards for EROs and ROs set and monitored by the Commission, setting out expectations for formally documented plans to identify and manage allegations of electoral malpractice. We will take action where we have concerns.
- Significant deterrent jail sentences in trials for electoral malpractice.

Nevertheless, we have highlighted a number of recommendations for ROs, EROs and police forces, as well as actions that the Commission will take forward.

### **Recommendations for ROs and EROs**

ROs and EROs must ensure they have developed and put in place formal, documented plans for identifying and dealing with allegations of electoral malpractice for the elections and referendums in 2011. They must meet performance standards and, where relevant, directions from the Chief Counting Officer, in doing this.

Plans should:

- identify key partners and contacts including the relevant police force election SPOC
- build on local knowledge of the relevant factors and circumstances to identify possible risks, working with the SPOC
- specify agreed responsibilities for action in the event of allegations of electoral malpractice
- include checking 100% of all returned postal voting statements

### **Recommendations for police forces**

Police forces should ensure that a SPOC for allegations of electoral malpractice is identified and supported in order to establish and maintain effective relationships with local EROs and ROs, and in particular to support a joint risk assessment for elections and referendums in 2011.

Ensure that SPOCs attend a programme of training events which is critical given the high turnover of SPOC personnel.

SPOCs should ensure that each officer on duty over the election period is provided with the appropriate pocket guide, *Guidance on policing elections and referendums*, and knows the name of their SPOC and where they can be contacted.

For 2011, SPOCs should continue to record and report allegations of electoral malpractice via the ACPO Police National Information Co-ordination Centre (PNICC) network. They should do this on a monthly basis throughout the year and for the three additional reporting dates during the election and referendum period, or immediately should a major case arise. The four forces in Wales have also been asked to report on an extra date in March following the referendum on additional powers for the National Assembly for Wales.

SPOCs should also organise local malpractice seminars in advance of polling day.

## **Actions for the Commission**

In addition to the joint guidance published with ACPO and ACPOS, *Guidance on preventing and detecting electoral malpractice*, available at [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events), the Commission has produced pocket guides for police officers, party and campaign workers and postal workers for the March 2011 referendum in Wales and the May 2011 elections and proposed referendum on the voting system for UK Parliamentary elections. The Commission also supported a national seminar in February 2011 for SPOCs to discuss the guidance materials, consider and work through potential scenarios and develop contacts within the wider SPOC network.

The Commission in Wales included a SPOC briefing as part of the seminar programme in preparation for the March referendum on the powers of the National Assembly for Wales.

In Scotland a dedicated briefing for SPOCs will be held prior to May.

The Commission will continue to work with EROs and ROs to support effective performance in relation to electoral integrity, providing them with tools and templates and undertaking targeted improvement visits.

The Commission will continue to work with ACPO, ACPOS, PSNI, PNICC, the CPS and the Procurator Fiscal to ensure cases of alleged electoral malpractice are recorded, monitored, and followed through to their outcome during 2011. We will also continue to encourage voters and campaigners to report to the police anything they think is suspicious, and give evidence where it happens.

We will report on cases and allegations of alleged electoral malpractice at elections and referendums held in 2011 together with any cases reported as a result of a by-election and those related to false applications to register to vote. Some allegations of electoral malpractice relating to the 2010 elections may not yet have been reported to the police. Our 2011 report will provide an update on these cases together with updated information about the outcome of cases from the May 2010 elections and the unresolved cases from 2009.

## **Actions for the UK Government**

We welcome the UK Government's progress in implementing the system of individual electoral registration in Great Britain, which was approved in the Political Parties and Elections Act 2009. The implementation of the programme should reduce the susceptibility of our registration system to electoral malpractice.

In conjunction with the electoral modernisation strategy we want the Government to address significant policy issues that would strengthen the security of the electoral process, including:

- reviewing the case for requiring proof of identity for voters at polling stations
- mandatory checking of 100% of all returned postal voting statements

# 1 Introduction

## About the Electoral Commission

1.1 The Commission is an independent body set up by the UK Parliament under the Political Parties, Elections and Referendums Act 2000 (PPERA). Our aim is integrity and public confidence in the democratic process.

1.2 We work to:

- register political parties
- make sure people understand and follow the rules on party and election finance
- publish details of where parties and candidates get money from and how they spend it
- set the standards for running elections and report on how well this is done
- make sure people understand that it is important to register to vote, and know how to vote

1.3 We produce independent reports on the administration of all major elections and referendums in the UK. We also review and comment on draft electoral legislation and identify where changes in the law will help secure improvements in the administration of well-run elections.

1.4 We want people throughout the UK to be confident in the results of elections. Preventing opportunities for electoral malpractice, ensuring that attempts to commit malpractice are detected and dealing with allegations in an appropriate manner are key priorities for the Electoral Commission.

1.5 We work closely with the Association of Chief Police Officers (ACPO), the Association of Chief Police Officers in Scotland (ACPOS), the election Single Point of Contact (SPOC) officers in each police force,<sup>3</sup> the Crown Prosecution Service (CPS), the Procurator Fiscal, the Public Prosecution Service, electoral administrators, Royal Mail, political parties and their representatives and UK Government officials to coordinate and support effective activities to prevent and detect electoral malpractice.

1.6 The Commission's Party and Election Finance directorate receives and considers allegations of failure to comply with the Representation of the People Act 1983 (RPA 1983) in relation to candidate expenditure. Our role in relation to

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<sup>3</sup> SPOCs have been established in each police force across England, Scotland and Wales as a dedicated resource for ensuring police are prepared for and responsive to allegations of electoral malpractice.

these offences is however limited to considering whether, on the information available, there is sufficient evidence of potential offences under the RPA 1983 to justify a referral to the police. Where police inquiries are already under way we will normally provide any advice or support requested by the police rather than open a case.

## About the Association of Chief Police Officers and the Police National Information Co-ordination Centre

1.7 ACPO is an independent, professionally led strategic body. In the public interest, and in equal and active partnership with government and the Association of Police Authorities, ACPO leads and coordinates the direction and development of the police service in England, Wales and Northern Ireland. In times of national need ACPO – on behalf of all chief police officers – coordinates the strategic policing response. The Police National Information Co-ordination Centre (PNICC) is part of ACPO and its wider role is to manage police information at a national level. It is this capability that enabled ACPO and the Commission to establish a reporting mechanism for electoral malpractice. While the information has been gathered and collected by ACPO PNICC, it would not have been possible to extend the project to include information about electoral malpractice in Scotland without the support of ACPOS.

## About the May 2010 elections

1.8 On Thursday 6 May 2010 people across the UK voted in elections for the UK Parliament. In some parts of England people also voted in local government elections.

1.9 The UK electorate at the 2010 general election was almost 45.6 million – the largest ever. The registers contained 1.35 million more names than the last UK general election in 2005, an increase of 3.1%.

1.10 The 2010 English local government elections gave 21.9 million registered electors (57% of the total electorate in England) the opportunity to vote. Overall, there were 164 local government elections in local authorities including all 32 London boroughs and all 36 metropolitan boroughs. There were also four mayoral elections.

1.11 Table 3 below shows statistics for the UK general election in May 2010.

**Table 3: Candidates, electors and votes cast at the general election on 5 May 2010**

	Number of seats	Number of electors (million)	Number of votes cast (million)
UK	650	45.60	29.69
Great Britain	632	44.28	29.01
England	533	38.30	25.08
Wales	40	2.27	1.47
Northern Ireland	18	1.17	0.67
Scotland	59	3.86	2.47

## About this report

1.12 The Commission is required to publish a report on the administration of each general election in the UK.<sup>4</sup> Our report on the UK general election, which was published in July 2010, reported our initial findings from our analysis of allegations of electoral malpractice relating to the May 2010 elections.<sup>5</sup>

1.13 For the third year in succession, we worked with ACPO PNICC, with assistance from ACPOS, to ensure a consistent and complete record of allegations of malpractice relating to the 2010 elections, and to enhance understanding of the scale and nature of electoral malpractice at elections in the United Kingdom. It is now possible to monitor and track allegations reported to the police through to their conclusion, to give a comprehensive picture of electoral malpractice.

1.14 It should be remembered that each case recorded in this analysis involves only alleged malpractice, rather than confirmed instances of malpractice, until the investigation is resolved. It is only by following each case through to its outcome that an accurate picture of the actual nature and extent of electoral malpractice can be known. This methodology gives a much fuller and more precise picture of alleged and actual malpractice than can be obtained by simply recording those successful prosecutions that come to our attention.

1.15 Care should be taken not to assume that every case reported here is proof of electoral malpractice – evidence from this and previous analysis suggests that a significant proportion of cases involve allegations that are not ultimately substantiated.

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<sup>4</sup> Section 5(2)(b), PPERA.

<sup>5</sup> The Electoral Commission, *Report on the administration of the 2010 UK general election* (July 2010), available at [www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf).

1.16 2010 was the first time we collected returns from the police on a monthly basis throughout the year as opposed to only during an election period. Data is now available for any by-election that may be held and also for registration offences that occur during the annual canvass, or indeed throughout the year by rolling registration.

1.17 Early in 2010, a SPOC was established for the Police Service of Northern Ireland (PSNI) for the first time. This report summarises at paragraphs 2.52–4 information that has been made available to us by the PSNI on cases and allegations of electoral malpractice relating to the May 2010 elections and throughout 2010 in Northern Ireland.

1.18 Although we received returns from SPOCs on a monthly basis throughout 2010, the data presented below is based on returns dating from 6 April to 20 August. Additional election reporting dates – 6, 10, 13 and 19 May – were added around the elections to enable the data to be compared with data from previous years.

1.19 All 51 police forces across England, Scotland and Wales each submitted returns of any cases relating to elections they received, including electoral registration, on a monthly basis throughout 2010. We also received returns from the PSNI.

1.20 This report presents the findings of our analysis of the extent and nature of cases of alleged electoral malpractice across the UK. It reports on the outcomes from cases of electoral malpractice and identifies cases still to be resolved. The report also highlights lessons from these elections and identifies changes which should be made to improve the capacity of all those involved in the administration of elections to deal effectively with electoral malpractice.

1.21 The Commission gratefully acknowledges the commitment of ACPO PNICC and ACPOS in carrying out this project in 2010 and their willingness to continue the project in 2011. In particular the Commission appreciates the work of the ACPO election crime leader Assistant Chief Constable Gareth Cann, Assistant Chief Constable Mike McCormick (ACPOS) and the ACPO PNICC team of Chief Inspector Paul Peplow, Inspector Ray Teuten and Claire Rudkins. The Commission, ACPO and ACPOS wish to record particular thanks to all SPOCs for submitting returns so promptly and comprehensively, especially where this work does not form part of their mainstream duties; without their support the project could not have taken place.

## About electoral malpractice

1.22 Frequently, the shorthand term ‘electoral fraud’ is used to cover instances where there has been a deliberate attempt to cheat at elections, but it can also include a wide variety of other breaches of the Representation of the People Acts. In this report we use the term ‘electoral malpractice’, which covers all illegal actions that contravene the RPA 1983. It includes offences that are not fraud, such as failing to put the imprint on election material, making false

statements about the personal character of a candidate, or using undue influence to persuade someone to vote or not to vote.

1.23 A fuller list of offences under the RPA 1983 is given in Appendix B and Appendix C.

## Terminology used in this report

1.24 In order to analyse and report on the scale and nature of electoral malpractice it is important to define clear and agreed terminology. Tables 4a and 4b define the terminology used in this report.

**Table 4a: List of abbreviations used in this report**

<b>Abbreviation</b>	<b>Full title</b>
ACPO	Association of Chief Police Officers of England, Wales and Northern Ireland
ACPOS	Association of Chief Police Officers in Scotland
CPS	Crown Prosecution Service
ERO	Electoral Registration Officer
PNICC	Police National Information Co-ordination Centre
PSNI	Police Service of Northern Ireland
RO	Returning Officer
SPOC	Single Point of Contact officer

**Table 4b: Definitions of terminology used in this report**

<b>Term</b>	<b>Definition</b>
Case	<p>A case is a unit of management for one or more allegations or complaints made to the police. It may involve one offence or more, committed by one person or several people. It reflects the way the police manage allegations – from the smallest to the largest incident.</p> <p>The case is the most appropriate unit of measure for understanding the extent of alleged and actual electoral malpractice. Reliance on the record of proven court cases alone is inadequate.</p>

Allegation	<p>An allegation is a formal complaint made to the police about a breach of electoral law. Using the Home Office counting method, each allegation represents one offence against one victim by one offender.<sup>6</sup> At the time of an election the number of allegations is usually the only indicator of electoral malpractice that is available. Allegations:</p> <ul style="list-style-type: none"> <li>• might not be substantiated (i.e. insufficient evidence to support the allegation)</li> <li>• might be made where no law has been broken</li> <li>• might be made where there is no evidence of breaching the RPA 1983</li> <li>• might be made where there is not enough evidence to prove that electoral malpractice has taken place or there is not enough evidence to identify who has committed the offence</li> </ul> <p>Allegations might also be made where there is sufficient evidence that electoral malpractice has occurred but it is decided that a prosecution is not deemed to be in the public interest. These would normally result in a caution if guilt is admitted, or informal police advice.</p> <p>The number of reported allegations should be regarded as indicative rather than as a precise representation of electoral malpractice. The number of allegations may change during the course of an investigation as more information comes to light. New allegations may arise as a result of police inquiries while others may be dismissed as hearsay, vexatious or simply the product of sweeping generalisations.</p>
Offence	An electoral malpractice offence is an illegal action or corrupt practice that contravenes the RPA 1983.
Caution	A police caution is a formal warning given to adults who admit they are guilty of a non-violent offence, and is an alternative to prosecution. A caution is not a criminal conviction but it may result in a criminal record.

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<sup>6</sup> Home Office counting rules set out which allegations of offences should be recorded and how they should be counted. The basic principle is that each allegation represents one alleged offence against one victim by one offender. In a case with multiple victims, each victim would be counted as a separate crime and similarly, in a case with multiple offenders, each offender would be counted separately. Every police force has a Registrar who is appointed to ensure compliance with the rules.

Informal advice from the police	This outcome is an alternative that falls short of a caution, and does not bring the case into the criminal justice system.
Charge	A criminal charge is where, following a police investigation and interview, a person is formally accused of committing a criminal offence.
Prosecution	A prosecution is the conducting of legal proceedings against a defendant who is charged with an offence or offences.
Conviction	A conviction is a judgement, or plea, of guilty in a criminal case.
Electoral malpractice	Electoral malpractice is defined as any breach of the Representation of the People Acts, primarily the RPA 1983, as these are specific to electoral law. This definition will not cover all law enforcement action in respect of electoral matters, but is appropriate for the purpose of this analysis.
Electoral misadministration	Only in very exceptional circumstances where an electoral administrator is guilty of a breach of official duty would electoral misadministration become electoral malpractice. Administrative errors, such as sending an elector the postal ballot paper for the wrong ward or staff at the polling station putting a line against the wrong elector when handing out a ballot paper, are negligent rather than criminal acts. If they should affect the outcome of an election there is a civil remedy through an election petition to an election court.

## 2 Electoral malpractice at the May 2010 elections

2.1 The findings presented are based upon returns from police election Single Point of Contact (SPOC) officers from all 51 police forces across Great Britain with regard to cases of alleged electoral malpractice in 2010. This report also covers alleged electoral malpractice in Northern Ireland. Unless otherwise stated the figures quoted below relate to our predetermined election period (6 April to 20 August) and cover Great Britain only so that they can be compared with data in previous years' reports.

2.2 While the data recorded by SPOCs has enabled us to provide a picture of the scale, nature and distribution of cases, we are unable to say whether alleged electoral malpractice is prevalent among certain communities. Further research and data are required in order to establish whether such conclusions can be made.

### Cases of alleged electoral malpractice reported within our election reporting period

#### The scale and extent of cases and allegations

2.3 The number of cases of alleged malpractice per case, especially where these can be substantiated, can provide an illustration of the scale of electoral malpractice.

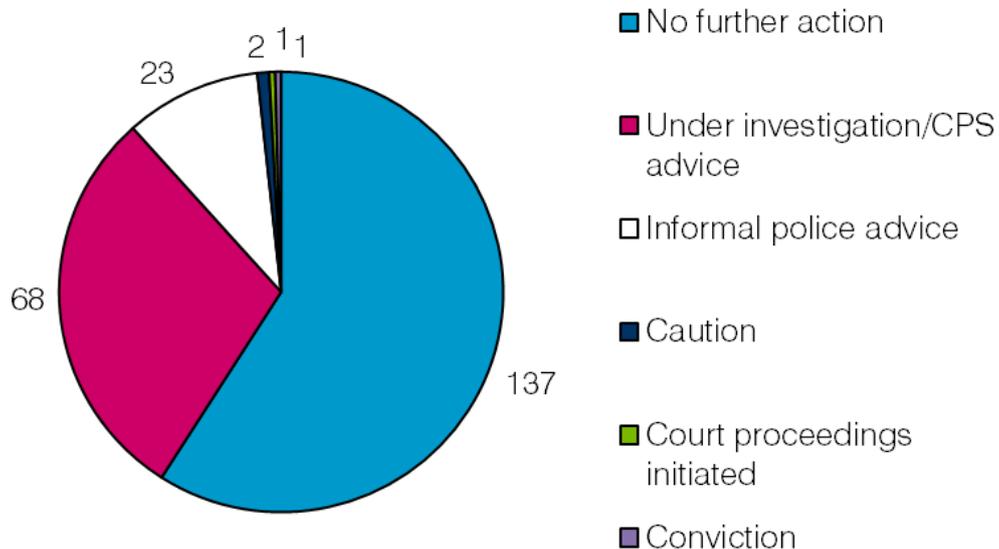
2.4 Our analysis of the data that we have received from SPOCs to date indicates that there is no evidence of widespread, systematic attempts to undermine or interfere with the May 2010 elections through electoral fraud. To date, there have been no substantiated cases of alleged electoral malpractice reported on a scale comparable to the most high-profile cases in 2004 or 2005 in Birmingham, Peterborough and Bradford.

2.5 No case reported to the police in this analysis has been shown to have affected the outcome of the election to which it related, and no election that took place in May 2010 has had to be re-run as a result of electoral malpractice.

#### The outcome of cases

2.6 Chart 1 below shows the outcome of cases of alleged electoral malpractice.

**Chart 1: Outcome of cases of alleged malpractice reported at the 6 May 2010 elections**



2.7 At the time of publishing, only one case had resulted in a criminal conviction whereby the defendant was required to pay a fine – see the Manchester case study below – and court proceedings were initiated in one case. Two cases were resolved with cautions. By comparison, one case resulted in a caution in 2009.

2.8 Twenty-three cases (10%) resulted in informal police advice being given; the same as in 2009 (10%). The police will give informal advice where a case falls short of a caution but which may result in a criminal record. The majority of these cases (15) were alleged campaigning offences – 11 were imprint and four were false statements about a candidate.

2.9 More than half of all reported cases (59%), during the election reporting period have been recorded as no further action. This is either because no offence has been committed, there is no evidence, or there is insufficient evidence to bring a prosecution, or no offender can be detected. This is higher than the number of cases requiring no further action in 2009 (52%).

2.10 Of those cases where the outcome was no further action, over half (55%) was due to no offence having been committed. Twenty-two per cent was due to no evidence; 17% where the offence was undetectable; and six per cent were found not to be an RPA 1983 offence.

### Case study – no evidence

In Coventry, a large number of postal ballots (65) were delivered to the elections office at the local government elections. This was treated as suspicious by the Returning Officer and the police were advised of potential electoral malpractice being committed.

Close scrutiny of the postal ballots by the Returning Officer and the police revealed no evidence that an offence had taken place and the ballots were subsequently included in the count. The police closed the case as no further action.

2.11 Sixty-eight or 29% of all cases relating to the May 2010 elections remain under investigation or are awaiting advice from the Crown Prosecution Service (CPS). We will report any updated information about the outcome of these cases when we publish our analysis of any allegations of electoral malpractice relating to elections in 2011.

### The number of cases

2.12 A total of 271 cases were recorded by the police across Great Britain throughout 2010. During our election reporting period 232 cases were reported. Twenty-five cases of electoral malpractice were reported to the Police Service of Northern Ireland (PSNI) in 2010.

2.13 The number of cases of alleged electoral malpractice recorded by police forces in relation to the May 2010 election is higher than the number recorded in relation to the June 2009 elections. This difference must be seen in context of the type of elections that were held in 2010 and the areas they were held in. Prior to the May elections it was envisaged that reports of actual or perceived malpractice were likely to be greater than in the previous two years. This was due to:

- local elections in England scheduled in London and metropolitan boroughs, which are densely populated and traditionally have a history of allegations of electoral malpractice
- the high-profile nature of a general election campaign and the likelihood that some candidates and their election agents might have very little experience or knowledge of electoral law, including the rules specific for a general election, leading to controversies and publicity for allegations based on misunderstanding of the rules rather than actual malpractice

2.14 In addition, measures have been implemented over the last few years which have made it easier to identify and check for electoral malpractice, and a formal process for reporting alleged electoral offences has been introduced:

- Incorporating recommendations by the Commission, the Electoral Administration Act 2006 gave more powers, duties and new procedures to

those preparing for and running elections to identify and check for malpractice.

- The Commission's performance standard relating to electoral integrity aims to ensure that electoral administrators have a process in place to identify any patterns of activity that might indicate electoral malpractice. We have seen electoral administrators becoming more vigilant in identifying, and subsequently verifying, activities that they think are suspicious such as receiving a large number of applications to register to vote and to vote by post or proxy close to the deadline. Some have used their internal audit team to assist in checking applications to ensure the accuracy of electoral registers, and others have introduced new review procedures to ensure that ballot papers were not sent to people who should not receive them.
- Some Royal Mail staff have reported to the police anything that they thought appeared suspicious, such as a member of the public posting large numbers of postal ballot packs, to help ensure the integrity of the election. The Commission has worked with Royal Mail to produce a pocket guide for all Royal Mail staff to improve the integrity of the electoral process.
- Upon our recommendation each police force across the UK now has an election SPOC committed to preventing electoral malpractice and providing a fast and positive response to allegations.
- The SPOC network has meant that alleged malpractice is now recorded. More information than ever is now available on the extent of allegations of electoral malpractice. Cases which would not have been previously recorded should now be recorded, which would increase the number of known cases of alleged electoral malpractice.

## The size of cases

2.15 A case is a unit of management for one or more allegations or complaints made to the police. Individual cases recorded by police forces might include allegations relating to more than one person, or multiple allegations against one person. It is important to note that the number of allegations within a case can vary significantly depending upon the nature of the case.

2.16 Eighty per cent of cases involved only one allegation. This was a similar figure to 2009 where 79% of all reported cases involved only one allegation. Ten per cent of cases had two allegations.

2.17 There were a small number of cases where investigation by the police, which may be in conjunction with the local authority, involved examining large numbers of suspicious registration forms including applications to register to vote, to vote by post and to vote by proxy. Examples of the scale of some of

these are given below. We have chosen these as they were initially the largest cases of alleged electoral malpractice reported to the police. As illustrated, the original number of suspicious forms may be substantially reduced following further investigation if no evidence of malpractice is found.

### **Calderdale**

The case in Calderdale related to allegations of false applications to vote by proxy in the Park and Warley Wards. This area has a history of allegations of electoral malpractice in relation to falsely applying to vote by proxy and personation at a polling station.

The 2010 case related to 20 suspicious forms to vote by proxy. Concerns arose following calls from several electors who had been notified that they had appointed a proxy to vote on their behalf despite not having done so. The police examined up to 200 application forms but found no evidence to suggest electoral malpractice in all but 20 forms.

The police could find no evidence that the forms themselves had been fraudulently completed, although statements taken from the electors who had completed these 20 forms suggested that some of the 20 had been duped into signing them. On this basis, the ERO cancelled their proxy voting applications and these electors were allowed to vote in the manner they chose.

While the police were able to ascertain that electoral malpractice had taken place they were unable to prove that this was fraud to the criminal standard burden of proof.

### **Peterborough – false applications to register to vote by post**

Initially, Peterborough City Council followed robust sifting procedures of several hundred applications to register to vote and to vote by post. Following this, 150 applications were identified as high risk and referred to Cambridgeshire Constabulary for further investigation.

A man was identified to have delivered the applications to the City Council. He was subsequently arrested and his computer equipment was seized from his home address.

He denied any knowledge or involvement concerning fraudulent voting applications and summarised his involvement as being a delivery driver for the Conservative Association. He freely admitted handling the applications and denied any knowledge as to how they were constructed. Low level enquiries were completed with the Conservative Association to identify the existence of reliable third party evidence that might identify those involved but none was found.

The defendant was bailed to allow the examination of his computers to identify the existence of source documents (tenancy agreements in particular) which may have been used in support of false applications and to complete an identification procedure involving potential witnesses. Both these lines of enquiry were negative and no further action was taken against him.

A joint decision was made by Peterborough City Council and Cambridgeshire Constabulary that, as no person appeared to have been denied their right to vote in the 6 May elections nor any suspect identified, no further investigation would be carried out. Furthermore, no further referrals, intelligence or complaints, were received by Peterborough City Council or Cambridgeshire Constabulary in relation to allegations of electoral fraud.

## **The geographical distribution of cases**

2.18 Police forces across Great Britain reported a total of 232 cases of alleged malpractice during our election reporting period. Of these, 216 or 93% of all cases were reported in England; nine cases in Scotland and seven cases in Wales. The Metropolitan Police (48) and West Midlands Police (25) collectively accounted for almost a third (32%) of the total number of reported cases. Twenty-five cases were reported in Northern Ireland (see paragraphs 2.52–4).

2.19 Overall, seven police forces reported 10 or more cases of alleged malpractice, accounting for 59% of all cases. These are Lancashire, Merseyside, the Metropolitan Police, Nottinghamshire, Thames Valley, West Midlands and West Yorkshire.

2.20 Tower Hamlets reported 14 cases of alleged electoral malpractice, the largest number reported in any local authority. All but one of these resulted in no

further action with one case relating to an alleged imprint offence being given informal police advice. Six were recorded as alleged voting offences, five as alleged campaign offences, one an alleged nomination offence and the remaining two as alleged registration offences.

2.21 Of the alleged voting offences reported in Tower Hamlets, four related to undue influence and two were personation at a polling station. Four of the campaign cases were where a false statement had been made about a candidate and one was where a leaflet had been published without the printer's name and address on. The two registration cases were a false application to vote by post and a false application to register to vote. The one nomination case was a false signature on the nomination paper.

### **Tower Hamlets – false applications to register to vote**

Multiple allegations were made to the police about possible fraudulent applications to register to vote in the weeks before polling day. These allegations were accompanied by widespread media coverage.

The police initiated an enquiry following discussions with the Electoral Services department. Ninety-eight addresses, where nine or more people were registered to vote, were suspected of fraudulent behaviour. These addresses were visited by the police and over 250 people were interviewed.

The investigation lasted four months with assistance from the authority and the case was resolved as no further action.

2.22 The proportion of police forces reporting no cases of electoral malpractice at the May 2010 elections was lower than in June 2009. Eleven police forces<sup>7</sup> reported no cases during the election period compared with 32 the previous year. However, figures are more comparable to 2008 where 17 forces reported no cases. Furthermore, more forces than in 2009 reported only one case of alleged electoral malpractice: 10 compared with seven.

2.23 A detailed breakdown by police force of the number of cases and allegations relating to the May 2010 elections, giving the RPA 1983 offence and their outcomes, is published alongside this report on our website.

## **The nature of cases**

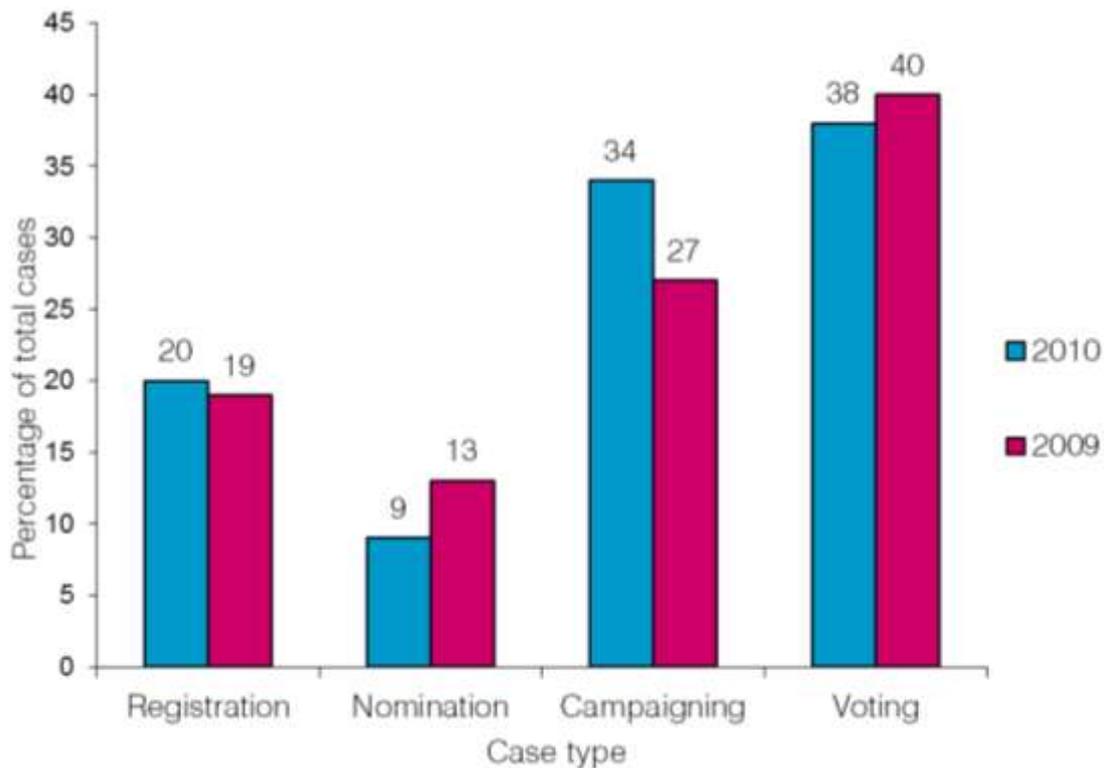
2.24 As shown in the following chart, the nature of cases recorded by police forces relating to the May 2010 elections is similar to those relating to the June 2009 elections. As in previous years, the largest category of cases of alleged electoral malpractice were voting offences, accounting for 38% of all cases

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<sup>7</sup> Of these, three police forces reported cases outside the election period – Gloucestershire; Hertfordshire; West Mercia.

reported. This was closely followed by campaigning offences – 34% of all cases reported.

**Chart 2: The type of cases as a percentage of the total number of cases reported in May 2010 and June 2009**



Note this does not include 'other' cases

### Registration cases

2.25 A similar figure to June 2009, 20% of all reported cases of alleged malpractice reported in 2010 relate to alleged registration offences. There were a total of 47 registration cases.

2.26 Thirty-three of the registration cases reported in 2010 related to registering to vote offences (Section 13D(1), RPA 1983). Eight cases related to false information in applications to vote by post (Section 13D1(A), RPA 1983). Five cases were reported as other registration offences (Section 4, 12 or 49, RPA 1983) that related to eligibility to be on the electoral register.

2.27 The majority of alleged registration offences are either still under investigation (36%) or required no further action (55%). Of the remaining three cases of providing false information when registering to vote, two are awaiting advice from the CPS and the other one was given informal advice by the police.

### Nomination cases

2.28 Nineteen cases were reported as alleged nomination offences, representing nine per cent of all cases reported to the police. Although lower

than in previous years, this percentage has remained consistent since 2007 (2009 – 13%; 2008 – 12%; 2007 – 13%).

2.29 As in previous years, the majority of alleged nomination cases related to offences of false statement in a nomination paper (Section 65(A)1, RPA 1983). A total of 17 (89% of all nomination cases) were reported as such. Such offences can include instances where it is claimed that the signature on the nomination paper was not made by that person, or instances where a candidate is accused of falsely stating that they meet the qualification criteria for standing in the election. The other two related to ineligible candidates – see example below.

#### **Barking and Dagenham Council**

A former crossing patrol officer stood as the Labour Party candidate at the local elections to Barking and Dagenham Council and was elected. She took up her seat but then subsequently resigned as a councillor as it was discovered that she was employed by the council at the time of her nomination and consequently was not eligible to stand. She was subsequently re-elected at the by-election called to fill the vacancy.

At the time of reporting, our police returns showed the matter still under investigation. Since the reporting period closed we are aware that the woman has received a formal caution.

2.30 Almost two thirds (63%) of alleged nomination offences resulted in no further action. Of the remaining six cases which were false statement on a nomination form offences, two are under investigation, one is awaiting advice from the CPS, one resulted in the police giving informal advice, one court proceeding has been initiated and the remaining case was given a caution.

#### **Campaigning cases**

2.31 At the 2010 elections there were 78 cases which related to alleged campaigning offences (34% of all cases reported). This compares with 13 cases (27% of all cases) in 2009, a similar proportion to 2008.

2.32 The most frequent campaign offence in 2010 was the RPA 1983 offence false statements as to candidates. This occurs when a person makes a false statement about the personal character of a candidate. These accounted for almost half (47%) of all campaigning cases. This was a larger proportion than in 2009 when these accounted for just over a third of all campaign cases.

2.33 Twenty-three (62%) of Section 106(1) cases were recorded as no further action; nine (24%) were under investigation and four were given informal police advice. The remaining case resulted in a conviction whereby the defendant was given a fine alongside another fine for delivering leaflets with no imprint – see case study below.

2.34 The second most frequent campaigning offence is where the ‘imprint’ or name and address of the printer, publisher and on whose behalf the document

has been produced, is not on the face of election literature (as required by Section 110 of the RPA 1983). This accounted for 31 of the 78, or 40%, of all campaign cases reported in 2010 and was significantly lower than the proportion in 2009 when this figure was 69% and the highest category within all reported campaign cases.

2.35 While it is relatively easy to produce evidence of breaches of imprint offences, many offenders are not prosecuted on the grounds that it was not intentional. Many candidates claim ignorance or state that it was an inadvertent oversight. In such cases, it is often deemed not to be in the public interest to bring a prosecution and they often result in no further action as was the case in almost half of s110 offences. However, some police officers issue a warning or a caution to prevent them from committing the same offence at future elections – 11 of the 31 cases (35%) were resolved in this way.

2.36 One case, which related to the delivery of leaflets that did not have an imprint on and featured false allegations about the character of a particular candidate, resulted in a conviction with the defendant being given a fine for each of these offences – see case study below.

#### **Manchester – Miles Platting and Newton Heath ward**

A defendant pleaded guilty to being paid £50 to deliver up to 1,000 leaflets that made allegations about the character of a particular candidate. These leaflets claimed the candidate was corrupt and that he took backhanders. The offender gave a description of the man and woman who paid him the money but it has not been possible to identify them.

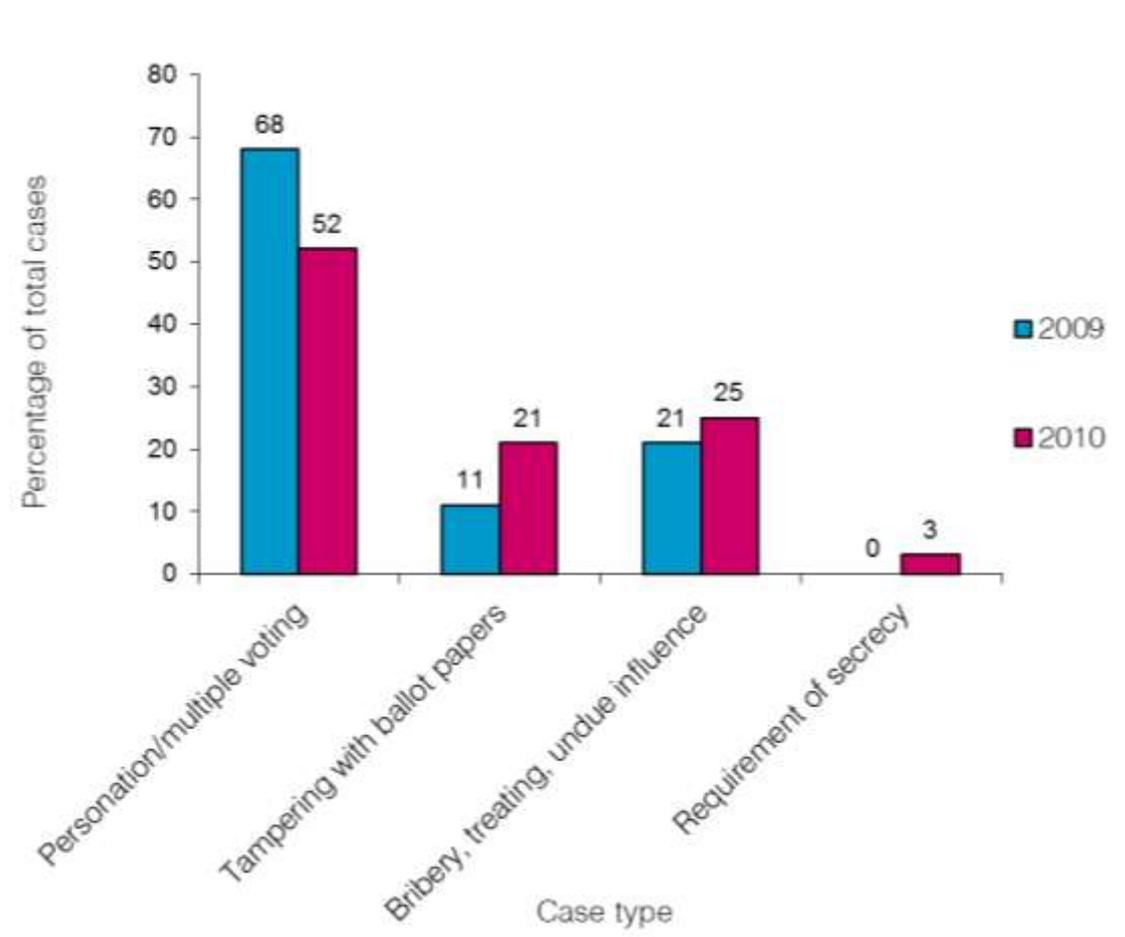
As the defendant pleaded guilty and had no interest in the election contest other than his payment he was fined £50 for distributing leaflets without an imprint (s110) and £50 for making false statements about the candidate (s106). He was also fined £85 costs plus £15 victim support.

2.37 The remaining campaign offences related to return of expenses – six per cent of all campaign offences. This occurs when a candidate either submits his/her expenses late or not at all.

#### **Voting cases**

2.38 Alleged voting offences accounted for 38% of all cases reported, representing the largest category of offences – 87 cases. In 2009, 40% of all cases were alleged voting offences. As shown in chart 3 the proportion of personation offences within voting offences was lower than in 2009 (68%). And the proportion of someone tampering with a ballot paper was greater than in 2009 – 21% compared with 11%.

**Chart 3: Type of voting offence as a percentage of all voting offences in 2009 and 2010**



2.39 The most common alleged voting offences in 2010 were alleged personation offences (just over half of voting offence cases). Personation at a polling station was the highest of these (49% of all personation offences) followed by those encountered through postal voting (27% of all personation offences) and proxy voting (24% of all personation offences). Where there was an outcome, all personation offences resulted in no further action.

2.40 A fifth of all voting cases were someone tampering with a ballot paper. In one example of this a candidate was accused of collecting unopened completed postal votes, and in another counted ballot papers were moved from one pile to another to help a different candidate win. The first was dismissed after insufficient evidence while the latter is still under investigation. Of all tampering with ballot paper offences, 14 of the 18 cases were resolved with no further action; three remain under investigation and in one the defendant was given informal advice from the police.

2.41 Sixteen per cent (14) were undue influence. A further three cases were bribery offences and an additional five were treating. All three types of cases related to a person being influenced to vote, or not vote, in a particular way, or indeed not to vote at all. The difference between them is how a person goes

about doing this, i.e. do they use force or threatening language or do they try to buy a person's vote. Of these cases 68% required no further action; 14% were under investigation and 18% were given informal police advice.

2.42 Three voting offences related to the RPA 1983 s66 requirement of secrecy. No case of this nature was reported in 2009. Two of these involved leaking turnout data from postal voting opening sessions in Bristol and West Lothian via twitter or blogs. In Bristol, the two people in question, one Labour candidate and one Labour Party agent, admitted guilt and were given a caution. The Lothian and the Borders police found insufficient evidence to take forward a prosecution in respect of the report in West Lothian. The remaining offence is still under investigation.

### **Other**

2.43 In 2010 there were five cases that the police did not classify under the RPA 1983 offences. These included one instance where a complainant believed that leaflets had been tampered with by members of the public, and another where leaflets were returned from the printers with one containing offensive drawings. In both cases no further action was required.

## Cases of alleged electoral malpractice reported outside our election reporting period

2.44 Collecting returns on a monthly basis throughout the year has enabled us to report on cases reported by the police outside our specified election reporting period. Throughout the whole of 2010 there were 271 cases of alleged electoral malpractice reported across Great Britain: 39 of which occurred outside our election reporting period.

### Outcome of cases

2.45 Over half of cases reported outside our election reporting period are still under investigation – 54%. Eleven cases have been recorded as no further action; four were given informal advice; one started court proceedings and in the remaining case the defendant was given a caution in relation to a false application to register to vote.

### Nature of cases

2.46 Cases reported outside our election reporting period tend to be intelligence driven whereby the police are informed that someone is about to commit a potential crime. An example of this occurred in West Yorkshire where the police were alerted to an individual who was planning to stand as a candidate at the general election despite having a criminal record. However, no further action was taken in this instance as the offence did not occur.

2.47 The 39 allegations of electoral malpractice reported comprised of electoral registration (17), campaigning (12), voting (8) and one 'other' allegation of electoral malpractice.

2.48 Electoral registration offences outside the election reporting period tended to be false application to register to vote offences whereby a person provided false information when registering to vote. They also tended to be people wishing to commit financial, benefit and/or ID fraud. Indeed, over half of alleged registration offences were identified by the police, or following investigation, as not being election motivated.

2.49 The majority of registration offences remain under investigation – 11 cases (65%). Of the remaining cases, four required no further action, one was given a caution and court proceedings had been initiated in the last case.

2.50 Allegations of electoral malpractice related to voting are a person falsely applying to vote either by proxy or by post. Three of these cases (two personation to vote by post and one treating) resulted in no further action. Of the five personation to vote by proxy cases, four are still under investigation and one was given informal advice by the police.

2.51 Most campaigning cases were imprint offences (8 of the 12). Five of these remain under investigation, one required no further action and the remaining two were given informal police advice. Three cases were false statement as to candidates, where two were recorded as no further action and the other given informal police advice.

## Cases of alleged electoral malpractice relating to the May 2010 elections in Northern Ireland

2.52 2010 was the first year in Northern Ireland where a SPOC was appointed within the PSNI specifically for election purposes. Throughout 2010 there were a total of 25 cases.

2.53 The majority of cases of alleged electoral malpractice related to registration offences – 23 cases. Over half of these, 13 cases, involved the provision of false information to register to vote by post. In just over a third, 8 cases, false information was provided in order to register for a proxy vote and the remaining two cases related to false information to register to vote. Of these cases, 61% are still under investigation; 13% resulted in a caution; 13% are awaiting advice from the Public Prosecution Service and 13% resulted in informal police advice.

2.54 The remaining two cases related to the distribution of candidate advertising material which was perceived to have broken the law in respect of poll cards. The PSNI sought legal advice and determined that there was insufficient evidence of any offence being committed.

## 3 Electoral malpractice at the June 2009 elections – update

3.1 This chapter updates the findings of the analysis report published jointly by the Associations of Chief Police Officers (ACPO) and the Electoral Commission in January 2010. It provides an update of the unresolved cases of electoral malpractice following the 2009 elections and information on the two remaining cases from the 2008 elections. In addition it brings closure to the 2005 Bradford case which was the only case of large-scale electoral fraud still unresolved at the beginning of 2010.

3.2 The table of cases by police force, published as Appendix D in our 2009 analysis report, has been updated and published on our website alongside this report.

### 2009 elections

3.3 In our analysis of allegations of electoral malpractice at the June 2010 elections we reported that a total of 17 cases involving 50 allegations remained unresolved, either continuing under investigation or awaiting advice from the Crown Prosecution Service (CPS). All but one of these cases have now been resolved while the remaining one is still under investigation as part of an ongoing identity fraud investigation. We will continue to monitor this and report on its outcome.

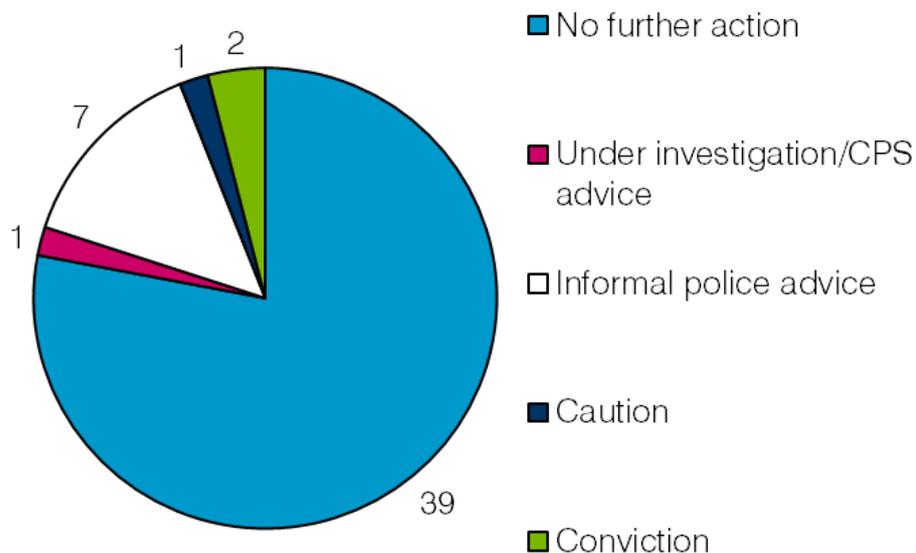
3.4 Thirteen cases (76%) were recorded as requiring no further action. This means that no offence had been committed, there was no evidence, or it was not possible to detect the offender.

3.5 The outcome of the three remaining cases were as follows, with one case resulting in a criminal conviction:

- Two cases resulted in informal advice being given by the police. This falls short of a caution and therefore does not bring the case into the criminal justice system.
- In one case the defendant, who was not affiliated to a particular political party, pleaded guilty to both charges of personation which resulted in a sentence of four months for each charge to run concurrently.

3.6 Chart 4 shows the updated outcomes from the cases relating to the June 2009 elections.

**Chart 4: Outcome of cases at the June 2009 elections**



Note: When cases of alleged electoral malpractice recorded at the 2009 elections are shown by outcome there appears to be two more cases than the number of recorded cases, which is 48. This is because two cases each have two different outcomes, i.e. some of the allegations relating to a case resulted in no further action while others were taken forward to prosecution.

## 2008 elections

3.7 There were two unresolved cases in 2010 outstanding from the 2008 local government elections. One involved 26 allegations of falsely applying to vote by proxy in Walsall and the other five fraudulent applications to vote by proxy in Calderdale.

3.8 In Walsall, the court agreed to extend the 12 month time limit of bringing a prosecution under the RPA 1983 by an additional 12 months. This facility was made available in the Electoral Administration Act 2006 (EAA) and this was the first time it had been used by the CPS.

3.9 The final result was that two people were charged with falsely applying to vote by proxy. The first, a Conservative councillor, was acquitted following trial at the Magistrates' Court. The second, the councillor's son, pleaded guilty to two charges of falsely registering for a proxy and in light of his guilty plea was given a reduced sentence of six weeks in prison on each charge to run consecutively. In passing the sentence, the judge stressed the importance of dealing with electoral fraud and stated:

*The most important feature of our democratic process is that it must be free from corruption. The court has a duty to protect it and any individual involved in electoral fraud will inevitably attract a custodial sentence.*

3.10 In Calderdale, the defendant was tried and found guilty of two charges of falsely applying to vote by proxy. He was given a suspended sentence of 12 months: six months for each offence of falsely applying to vote by proxy. The suspension was to last 12 months and during this time the judge imposed a 7pm to 7am curfew for six months.

## 2005 UK Parliamentary general election

3.11 At the 2005 UK Parliamentary general election there were allegations of widespread electoral malpractice relating to postal vote applications in the Bradford West constituency. Following a lengthy police investigation, which involved two retrials and concluded in September 2010, four men were each given a prison sentence of 21 months for fraudulent submissions of applications to vote by post and a fifth man who pleaded guilty to personation was given a reduced sentence of 11 months in prison.

# 4 Conclusions and recommendations for future elections

4.1 This report has presented our analysis of cases of alleged electoral malpractice for the third year in succession.

4.2 Our analysis of cases of alleged electoral malpractice recorded by police forces in Great Britain shows that there was no evidence of widespread, systematic attempts to undermine or interfere with the May 2010 elections through electoral fraud. No case reported to the police in this analysis has been shown to have affected the outcome of the election to which it related, and no election that took place in May 2010 has had to be re-run as a result of electoral malpractice.

4.3 A total of 232 cases were recorded by police forces across Great Britain during a specified election reporting period. A further 25 cases were reported in Northern Ireland throughout 2010. The total yearly figure for 2010 was 270 cases in Great Britain. More than 45 million people were eligible to vote and almost 30 million votes were cast at these elections.

4.4 The number of cases of alleged electoral malpractice was greater than in June 2009, although this is not surprising given that there were local elections scheduled in London and metropolitan boroughs which are densely populated areas and traditionally have a history of allegations of electoral malpractice.

4.5 While cases of alleged electoral malpractice are widespread across the country the majority of cases were reported in metropolitan boroughs. The majority of cases of alleged electoral malpractice related to voting cases, followed by campaigning cases then registration cases.

## Elections in 2011

4.6 There are a plethora of elections and referendums scheduled to take place in 2011. The year begins with a referendum in Wales on the powers of the National Assembly for Wales on 3 March. This is followed on 5 May by:

- National Assembly for Wales elections
- Scottish Parliament elections
- Northern Ireland Assembly election and local government elections
- English local government elections

4.7 It is also likely that a UK-wide referendum on the voting system will be held alongside these elections.

## Recommendations for elections in 2011

4.8 No one involved in the administration or policing of elections should be complacent about the risk of electoral malpractice at future elections. As we have concluded above, allegations of electoral malpractice have not been confined to any particular area, and allegations could be made at any time in any part of the UK where elections are being held.

4.9 Moreover, the public still remain concerned about the risk of electoral fraud, despite the fact that allegations of electoral malpractice are neither widespread nor systematic. Following the elections in May 2010, just over a third of respondents to our public opinion survey said they were very or fairly concerned that electoral fraud had taken place at these elections.

4.10 Nonetheless, it is clear that the approach to dealing with issues of electoral malpractice has changed considerably in recent years. A great deal has been done to help prevent and deter electoral malpractice and ensure that those who are tempted to break the law are caught and then severely punished, including:

- Changes to the law to specify new offences and require more checks on postal votes.
- Improved networks and guidance for police officers on electoral malpractice offences issued by the Association of Chief Police Officers (ACPO), the Association of Chief Police Officers in Scotland (ACPOS) and the Electoral Commission.
- The Commission has set performance standards for Electoral Registration Officers (EROs) and Returning Officers (ROs) to ensure that they have processes in place to identify any patterns of activity that might indicate electoral malpractice. The Commission has provided all EROs and ROs with guidance to meet this standard including a template plan.
- Significant deterrent jail sentences in trials for electoral malpractice.

## Recommendations for Returning Officers and Electoral Registration Officers

4.11 ROs, EROs and their electoral administration teams are uniquely placed to identify incidents and patterns of activity that might indicate misconduct.

4.12 The Commission has issued guidance and planning templates to support ROs, EROs and their electoral administration teams to develop and put in place effective plans. This includes those tasks which relate to electoral integrity.

ROs and EROs must ensure they have developed and put in place formal, documented plans for identifying and dealing with allegations of electoral malpractice.

Plans should:

- identify key partners and contacts, including the relevant Single Point of Contact (SPOC) officer
- build on local knowledge of the relevant factors and circumstances to identify possible risks, working with the SPOC
- specify agreed responsibilities for action in the event of allegations of electoral malpractice

## Recommendations for police forces

4.13 ACPO, ACPOS and the Commission also appreciate the support given to the creation of the database of electoral malpractice allegations by all SPOCs, and we welcome their continued support as we move towards the challenges posed by elections and referendums in 2011.

Police forces should ensure that a SPOC for allegations of electoral malpractice is identified and supported in order to establish and maintain effective relationships with local EROs and ROs, and in particular to support a joint risk assessment for elections and referendums in 2011.

SPOCs should ensure that each officer on duty over the election period is provided with the pocket guide, *Guidance on policing elections and referendums*, and is available to be contacted. For 2011, SPOCs should continue to record and report allegations of electoral malpractice via the ACPO Police National Information Co-ordination Centre (PNICC) network, on a monthly basis with additional returns on specified dates during the election period, or immediately should a major case arise.

## Actions for the UK Government

4.14 We welcome the UK Government's progress in implementing the system of individual electoral registration in Great Britain which was approved in the Political Parties and Elections Act 2009. The implementation of the programme should reduce the susceptibility of our registration system to electoral malpractice.

4.15 In conjunction with the electoral modernisation strategy we want the Government to address significant policy issues which would strengthen the security of the electoral process including:

- reviewing the case for requiring proof of identity for voters at polling stations
- mandatory 100% checking of all returned postal vote statements

## Actions for the Commission

4.16 In addition to the joint guidance published with ACPO, *Guidance on preventing and detecting electoral malpractice*, available at [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events), the Commission supported a national seminar in 2010 for SPOCs to discuss the guidance materials, consider and work through potential scenarios and develop contacts within the wider SPOC network.

4.17 The Commission has also organised sub-national events to support more local links between SPOCs and electoral administrators during spring 2011. The Commission are also working with ACPO PNICC to determine how they might encourage each police force to raise the profile of their SPOC across the force.

4.18 To provide a more comprehensive and accurate picture about the extent and nature of electoral malpractice we will continue to work with ACPO, ACPOS, ACPO PNICC and the Crown Prosecution Service (CPS) to enable every allegation recorded by SPOCs to be followed through to its outcome. Due to the success in 2010, we will continue to collect information from SPOCs on a monthly basis throughout 2011.

4.19 We will report on cases of alleged electoral malpractice at elections and referendums held in 2011 together with any cases reported as a result of by-elections and those related to false applications to register to vote. Some allegations of electoral malpractice relating to the 2010 elections may not yet have been reported to the police. Our 2011 report will provide an update on these cases together with updated information about the outcome of cases from the May 2010 and the unresolved cases from 2009.

# Appendix A – Reporting categories for Representation of the People Act 1983 offences

Table A1 outlines the categories and grouping of Representation of the People Act 1983 (RPA 1983) offences used in the 2008 project. An explanation of some of the offences is given in Appendix C.

**Table A1: Representation of the People Act 1983 (RPA 1983) offences**

Section of RPA 1983	Summary title
Registration	
13D(1)	False information
13D(1A)	False postal/proxy voting application
4, 12, 49	Other registration offences
Nomination	
65(A)1	False statement in nomination paper
65(1)	Tampering with nomination papers
107	Corrupt withdrawal of candidate
Campaign	
110	Printer's name and address on election publications
106(1)	False statements as to candidates
109	Payment for exhibition of election notices
111	Prohibition of paid canvassers
75–85	Return of expenses
Voting	
60–62 and 62A	Personation/legal incapacity to vote/multiple voting
66	Requirement of secrecy
65(1B–F)	Tampering with ballot papers
113–115	Bribery, treating and undue influence
Administration	
63	Breach of official duty
99(1)	Officials not to act for candidates
Miscellaneous	
93	Broadcasting
94	Imitation poll cards
97(1)	Disturbance at election meetings
100(1)	Illegal canvassing by police officers
110	Providing money for illegal purposes

# Appendix B – Election offences: key offences and penalties

The Representation of the People Act 1983 (RPA 1983) defines most offences for UK Parliamentary general elections, English local government elections and for electoral registration and postal voting issues across the UK. The Electoral Administration Act 2006 (EAA) amended or introduced new RPA 1983 offences, and introduced new procedures.

Most offences under the RPA 1983 are classified as corrupt or illegal practices. Corrupt practices are indictable with a maximum penalty of imprisonment for one year and/or a fine, except for the offences of personation and making a false application to vote by post or proxy, where the maximum penalty is imprisonment for up to two years and/or a fine.<sup>8</sup> Illegal practices are summary offences and the maximum penalty is a £5,000 fine.<sup>9</sup>

Prosecutions under the RPA 1983 must be brought within 12 months of the offence being committed. If there are exceptional circumstances, and there has been no undue delay in the investigation, the time limit may be extended to not more than 24 months after the offence was committed. Any application to extend the deadline must be brought within one year of commission of the offence.<sup>10</sup>

## Corrupt practices

### Bribery

A person is guilty of bribery if they directly or indirectly give any money to, or procure any office for, any voter in order to induce any voter to vote, or not vote, for a particular candidate, or to vote or refrain from voting.<sup>11</sup>

### Treating

A person is guilty of treating if before, during or after an election they directly or indirectly give or provide (or pay wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to influence any

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<sup>8</sup> Section 168, RPA 1983 and Article 120, National Assembly for Wales (NAW) (Representation of the People (RoP)) Order 2007.

<sup>9</sup> Section 169, RPA 1983 and Article 121, NAW (RoP) Order 2007.

<sup>10</sup> Section 176, RPA 1983 and Article 128, NAW (RoP) Order 2007.

<sup>11</sup> Section 113(2), RPA 1983 and Article 79, NAW (RoP) Order 2007.

voter to vote or refrain from voting.<sup>12</sup> The key consideration is the need to show that there is a corrupt intent.

## Undue influence

A person is guilty of undue influence if they directly or indirectly make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict injury, damage or harm in order to induce or compel any voter to vote or refrain from voting.<sup>13</sup> A person may also be guilty of undue influence if they act with the intention of impeding or preventing the voter from freely exercising their right to vote.<sup>14</sup> Substantive offences, threats to commit damage, assault and public order may be considered as in addition to undue influence.

## Personation

It is an offence for any individual to vote as someone else (whether that person is living or dead or fictitious), either by post or in person at a polling station as an elector or as a proxy.<sup>15</sup> Further, the individual voting can be deemed to be guilty of personation if they vote as a person they have reasonable grounds for supposing is dead or fictitious, or where they have reasonable grounds for supposing their appointment as a proxy is no longer in force. It is also an offence for a person to aid or abet the commission of the above offences.

## False application to vote by post or by proxy

It is an offence to falsely apply to vote by post or proxy with the intention of depriving another person of a vote or gaining a vote or money or property to which a person is not entitled.<sup>16</sup> Specifically, it is an offence to:

- apply for a postal or proxy vote as some other person (whether living, dead or fictitious)
- otherwise make a false statement in connection with an application for a postal or proxy vote
- induce an Electoral Registration Officer (ERO) or a Returning Officer (RO) to send a communication relating to a postal or proxy vote to an address that has not been agreed by the voter
- cause such a communication not to be delivered to the intended recipient

It is also an offence to aid or abet the commission of the above offences.

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<sup>12</sup> Section 114(2), RPA 1983 and Article 80, NAW (RoP) Order 2007.

<sup>13</sup> Undue influence can include threats of harm of a spiritual nature.

<sup>14</sup> Section 115 and 115(2), RPA 1983 and Article 81, NAW (RoP) Order 2007.

<sup>15</sup> Section 60, RPA 1983 and Article 30, NAW (RoP) Order 2007.

<sup>16</sup> Section 62A, RPA 1983 and Article 14, NAW (RoP) Order 2007.

# Illegal practices

## Multiple voting and proxy voting offences

There are various offences regarding multiple voting and proxy voting, including:

- voting by post as an elector or proxy when subject to a legal incapacity to vote
- voting more than once in the same or in more than one local election area
- applying for a proxy without cancelling a previous proxy appointment
- inducing or procuring another to commit one of the above offences<sup>17</sup>

## Other election offences

### Secrecy

Everyone involved in the electoral process should be aware of the secrecy of the ballot and should not breach it. The RO will give everyone who attends the opening or counting of ballot papers a copy of parts of the relevant legislation.<sup>18</sup> Any breach of this legislation is a summary offence with a maximum penalty of six months imprisonment or a £5,000 fine.<sup>19</sup>

### False registration information and false postal/proxy voting application

It is an offence to supply false information in relation to the registration of electors to the ERO for any purpose connected with the registration of electors. It is also an offence to provide false information in connection with an application for a postal or proxy vote. False information includes a false signature.<sup>20</sup> It is not necessary to establish an intention to gain, or deprive another, of a vote, money or property. This is a summary offence with a maximum penalty of six months imprisonment or a £5,000 fine.<sup>21</sup>

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<sup>17</sup> Section 61, RPA 1983 and Article 31, NAW (RoP) Order 2007.

<sup>18</sup> Section 66, RPA 1983 and Article 35, NAW (RoP) Order 2007.

<sup>19</sup> The maximum term of imprisonment for a summary offence is currently six months. This will increase to 51 weeks when Section 281(5) of the Criminal Justice Act 2003 comes into force. No date has yet been set for this.

<sup>20</sup> Section 13D, RPA 1983 and Article 14, NAW (RoP) Order 2007.

<sup>21</sup> Section 13D, RPA 1983 and Article 14, NAW (RoP) Order 2007.

## Other general offences

There are also some non-electoral offences which may be relevant, such as:

- making a false statement under the Perjury Act 1911
- forgery
- using a false instrument under the Forgery and Counterfeiting Act 1981
- conspiracy to defraud

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We are an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the democratic process. We regulate party and election finance and set standards for well-run elections.

## Democracy matters